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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2002/36

Addendum

Mission to Honduras*

* The executive summary of this mission report is being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being circulated in the language of submission and Spanish only.

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Executive summary

At the invitation of the Government the Special Rapporteur conducted a mission to Honduras from 5 to 15 August 2001. The visit was mainly prompted by allegations of extrajudicial executions of a large number of children under the age of 18, reported to have occurred mainly in the period 1998-2000. The visit was aimed at allowing the Special Rapporteur to investigate these allegations in situ, and also to gather information and acquaint herself with other issues relevant to her mandate. In addition to studying issues pertaining to minors, during her mission the Special Rapporteur also received reports and heard testimonies regarding alleged killings of, inter alia, members of indigenous communities and political activists. Information regarding cases of persons who had allegedly been extrajudicially killed because of their sexual orientation were also shared with the Special Rapporteur.

During her mission the Special Rapporteur held meetings in Tegucigalpa with a large number of government representatives, including the President of the Republic, the Minister for Foreign Affairs, the Minister of Public Security, the Attorney-General and the President of the Supreme Court. The Special Rapporteur also met with the National Human Rights Commissioner and the Executive Director as well as other staff of the Honduran Institute of Children and the Family (IHNFA). She further held discussions with a number of representatives of civil society, including both local and international non-governmental organizations. Invaluable advice and support were provided by the United Nations Development Programme, the United Nations Children's Fund and other members of the United Nations Country Team in Honduras. The Special Rapporteur also visited the city of San Pedro Sula, where she met, in addition to the city's mayor, the Special Prosecutor Coordinator and the Chief of Police, as well as representatives of non-governmental organizations. The mission also included visits to juvenile detention centres in Tegucigalpa and San Pedro Sula. Throughout her mission, the Special Rapporteur had discussions with both former and present members of youth gangs, the so-called maras and pandillas. In the streets of Tegucigalpa and San Pedro Sula she also met a number of other youths and children, who told her about their lives, fears, plans and dreams.

In her report the Special Rapporteur presents and analyses information gathered in Honduras describing a large number of alleged cases of extrajudicial killings of children and juveniles. The report also includes extensive case material based on a large number of interviews with eye-witnesses and family members of victims of extrajudicial killings. In her concluding remarks the Special Rapporteur notes that the material she collected and analysed for her report makes it clear that there have been a number of instances of children having been killed by the security forces. In most cases the child was unarmed and did not provoke the police to use force, let alone lethal force. There have been very few investigations or trials in incidents of extrajudicial killings, and convictions are exceptional.

The Special Rapporteur further points out that the action taken so far by the Government has not delivered a clear message to the police that they will be brought to justice for abuse of authority or for human rights violations. Neither have powerful lobbies been apprehended or given a signal by the authorities that they cannot resort to murder under the pretext of trying to

create a climate for economic revival. In this connection, the Special Rapporteur wishes to remind the Government that it is ultimately the human rights record, stability and rule of law in the country that will inspire confidence among donors and investors - not high-handedness and violence by the powerful against the more vulnerable members of society.

The Special Rapporteur urges the Government of Honduras to consider setting up an independent redress mechanism, such as an Ombudsperson for children. Such institutions are in place in a number of countries, and the Government of Honduras is encouraged to seek advice and support on this issue from other Governments and international agencies. The office of the Ombudsperson should have quasi-judicial powers and be provided with an independent investigative machinery. Amongst other functions, three are of primary importance:

(a) The independent mechanisms needs to be mandated to receive and act upon individual cases of extrajudicial killing, which the competent authorities fail to register or prosecute.

(b) It should keep a complete record of extrajudicial and other killings of children and monitor the progress made in the investigation and prosecution of each case.

(c) It should be mandated to compile periodic reports, reflecting the work it has undertaken and publicizing the findings and recommendations it has presented to the Government.

The Special Rapporteur further stresses that all killings of children must be thoroughly investigated. The Government must meet its obligation to solve the mystery of the children killed by unknown perpetrators. The Government should set up a Commission, with the participation of non-governmental organizations and the National Human Rights Commissioner, to study the situation with a view to formulating concrete recommendations and policy guidelines to ensure that these killings are thoroughly and independently investigated, and that those responsible are brought to justice without further delay.

The Honduran media have a heavy responsibility in denouncing violence and demanding an end to impunity for extrajudicial killings of children. The media and government officials, especially those in higher authority must interact with, listen to and hear the voices of children before making decisions for children or formulating suppositions about them. The media in cooperation with the relevant authorities could play a crucial role in sensitizing the public and bringing about a culture of respect for the rights of children and adolescents, in particular their right to life.

Annex

REPORT OF THE SPECIAL RAPPORTEUR, MS. ASMA JAHANGIR, SUBMITTED PURSUANT TO COMMISSION ON HUMAN RIGHTS RESOLUTION 2002/36

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Introduction

1. At the invitation of the Government the Special Rapporteur conducted a mission to Honduras from 5 to 15 August 2001. The visit was mainly prompted by allegations of the extrajudicial execution of a large number of children under the age of 18, reported to have occurred mainly in the period 1998-2000. The visit was aimed at allowing the Special Rapporteur to investigate these allegations in situ, and also to gather information and acquaint herself with other issues relevant to her mandate. In addition to examining issues pertaining to minors, during her mission the Special Rapporteur also received reports and heard testimonies regarding alleged killings of, inter alia, members of indigenous communities and political activists. Information regarding cases of persons who had allegedly been extrajudicially killed because of their sexual orientation were also shared with the Special Rapporteur.

2. The Special Rapporteur wishes to thank the Government of Honduras for the cooperation and support extended to her and for its openness exhibited throughout the mission. While in Honduras, the Special Rapporteur was able to travel freely throughout the country and to meet with a wide range of individuals and gather information from a variety of sources without any impediment or obstruction. The Government was forthcoming in arranging all official meetings the Special Rapporteur had requested. She notes with appreciation, that the President of the Republic of Honduras, His Excellency Mr. Carlos Flores Facussé, took a personal interest in her mission and saw the Special Rapporteur during her visit. She was also pleased to have had the opportunity to meet with the First Lady, Mrs. Mary Flakes de Flores, to discuss her work providing aid and care for children in Honduras.

3. Invaluable advice and support were provided by the United Nations Development Programme, the United Nations Children's Fund and other members of the United Nations Country Team in Honduras. She is also grateful for the assistance given by non-governmental organizations.

I. PROGRAMME OF THE VISIT

4. During her mission the Special Rapporteur held meetings in Tegucigalpa with the following officials and government representatives: the President of the Republic, the Minister for Foreign Affairs, the Minister of Public Security, the Vice-minister of the Preventive Police, the President and Vice-president of the Human Rights Committee of the Congress, the Vice-president of Congress, the President of the Foreign Affairs Committee, the Attorney-General, The Special Prosecutor Coordinator, the Special Prosecutors for Human Rights, for Childhood and the Handicapped, and for Organized Crime. She also had the opportunity to meet with the President of the Supreme Court of Honduras, as well as a number of other members of the Court.

5. The Special Rapporteur also met with representatives of the Democratic Union Party and the National Party.

6. The Special Rapporteur further met with the Executive Director and other staff of the Honduran Institute of Children and the Family (Instituto Hondureño de la Niñez y la Familia, IHNFA). In addition, she also visited the juvenile detention centres "Renaciendo" and "Corazon de María" at Tamara, as well as "Carmen" in San Pedro Sula.

7. In Tegucigalpa, the Special Rapporteur held two discussions with the National Human Rights Commissioner, Dr. Leo Valladares Lanza. She also met with representatives of the Honduran Bar Association. In Tegucigalpa she held briefings with a large number of local and international non-governmental organizations, as well as groups representing minorities and indigenous communities, including Casa-Alianza, Comité de Familiares de Detenidos Desaparecidos de Honduras (COFADEH), Save the Children (UK), Asociación Cristiana de Jóvenes, Consultorio Jurídico Popular, PRISMA, Proyecto Victoria, Asociación Visitación Padilla, Pastoral Social-Cáritas (in Tocoa), Movimiento Campesino Aguán (in Gualaco) and Coordinadora de Organizaciones Populares del Aguán. While in Tegucigalpa, she also visited the premises of Casa-Alianza and a children's cemetery managed by the same organization. In the capital the Special Rapporteur also spoke with a number of private individuals, including witnesses and relatives of victims of alleged extrajudicial execution. She also held a private meeting with a number of invited Honduran journalists. Internal discussions and briefing were held with the United Nations Country Team. She also met with the Acting Director of USAID.

8. From 8 to 10 August, the Special Rapporteur visited San Pedro Sula, where, in addition to the city's mayor, she held meetings with the Special Prosecutor Coordinator for San Pedro Sula and the Chief of Police. She also held discussions with the city's judge for minors and juveniles. The Special Rapporteur was also briefed by a large number of non-governmental organizations including the Comité Interinstitucional para la Prevención y Rescate de los Jóvenes en Maras (CIPREMA), Red Colaboración Siglo 21, Pastoral Penitenciaria - Caritas, the Comité para la Defensa de los Derechos Humanos en Honduras (CODEH) - Santa Rosa de Copán, CODEH - San Pedro Sula, Comunidad Gay - San Pedro Sula and the Confederación Parlamentaria de las Américas (COPA) - Tocoa. She had the opportunity to speak with witnesses and relatives of victims of alleged extrajudicial executions.

9. Throughout her mission, the Special Rapporteur had discussions with both former and present members of youth gangs, the so-called maras and pandillas. In the streets of Tegucigalpa and San Pedro Sula she also met a number of other youths and children, who told her about their lives, fears, plans and dreams. She is grateful for their time and trust.

II. GENERAL OBSERVATIONS

A. The purpose of the visit

10. Since her appointment, the Special Rapporteur has received information regarding extrajudicial killings of children in a number of countries. As the reported cases grew increasingly frequent, the Special Rapporteur decided to give the issue her full attention and to probe further in order to find more reliable and substantiated information. In view of these serious allegations, and in order to investigate this issue in situ, she decided that it was necessary to carry out a fact-finding mission to one country concerning which allegations of extrajudicial killing of children were regularly received. Honduras was selected also because of the

commitment shown by the Government to address the issues concerning children. In this context it should be noted that the Committee on the Rights of the Child, in its concluding observations on the second periodic report submitted by Honduras (CRC/C/15/Add.105) adopted at its twenty-first session, in August 1999, stated, inter alia, that it was "encouraged by the constructive, open and frank dialogue it had with the State party's delegation and welcome[d] the positive reactions to the suggestions and recommendations made during the discussion". In its observations the Committee also took note of a number of positive steps taken by the Government, including the introduction of pertinent legislation.

11. While the Special Rapporteur did not confine her investigation exclusively to the extrajudicial killing of children during her visit, that concern was central to the mission. Accordingly, she addressed all aspects of her mandate but placed greater emphasis on the violations of the right to life of children and devoted the biggest part of her mission to examining this regrettable situation.

B. International human rights instruments to which Honduras is a party

12. Honduras is a party to most of the key international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Honduras is also a signatory to the first and second Optional Protocols to the International Covenant on Civil and Political Rights.

C. Political and socio-economic background

13. Honduras has experienced a tumultuous political life, which in turn has impacted upon its social and economic conditions. The country was embarking upon an economic revival in 1998 when it was hit by Hurricane Mitch, which devastated the country. Thousands of people were killed and hundreds of thousands left homeless. Large portions of the country's infrastructure were also destroyed.

14. Throughout its history, Honduras has produced some remarkable personalities and leaders who, by their deeds, rose to become national heroes. The sixteenth century native leader, Lempira, resisted Spanish control over his region. There are several legends about his bravery and eventual death at the hands of Spanish soldiers. Today he symbolizes the country's indigenous heritage, and the Honduran currency is named after him. Another admired leader, Francisco Morazón, was a self-educated man from Tegucigalpa. When Central America became independent from Spain in 1821, Morazón joined the fight against the annexation of Honduras to Mexico. He lost the fight but subsequently joined the State Government of Honduras, part of the United Provinces of Central America formed in 1823. Two years later he was appointed President of the Honduran State legislature, and in 1830 became President of the United Provinces. He challenged the power of the Roman Catholic Church in the period prior to the civil war. He was executed in Costa Rica in 1842. A number of other illustrious Hondurans during the post-independence period provided the country with a rich legacy of fine role models.

15. Civil war and conflicts led to the collapse of the United Province of Central America. The Honduran leaders were actively involved in seeking to preserve Central American unity but could not succeed. Since independence, there have been over 130 changes of government and several military engagements took place on the national territory. Some were encouraged by neighbouring countries or indirectly promoted by foreign multinational banana companies operating in Honduras. The people of Honduras experienced hard times between 1980 and 1984, when State security forces carried out a systematic campaign of arbitrary detentions, torture, disappearances and extrajudicial executions. There is plenty of evidence of these atrocities, including the discovery of mass graves in 1981/82. Testimonies given by officers involved in these incidents indicate that most of them were carried out by special counter-insurgency military units and the notorious "Battalion 3-16", a death squad under the command of military intelligence officials. The memory of Battalion 3-16 haunts Honduran society to this day. During the 1980s, Honduras also became the launching pad for the anti-Sandinist forces known as the Contras, who were fighting the Marxist Government of Nicaragua. The Contras were also allies of Salvadoran forces fighting leftist guerrillas. In 1993, Dr. Valladares, the Honduran Human Rights Commissioner, requested the United States Central Intelligence Agency (CIA) to declassify a secret report of its Inspector General which confirmed the existence of politically motivated and officially sanctioned "death squads". In 1995, the Baltimore Sun published a series of articles which exposed human rights violations in Honduras in the 1980s, and human rights groups took up the demand for declassification. The CIA made the information available in 1998. The lives of ordinary Hondurans still bear the scars of years of proxy wars and conspiracies.

16. Despite this heavy legacy, Honduras is firmly pursuing a multiparty democratic political system. After two and a half decades of mostly military rule, a freely elected civilian Government came to power in 1982. The Constitution came into effect on 20 January 1982. The President is elected for a period of four years by universal and compulsory suffrage of citizens above the age of 18. He/she is the Head of State and Government and appoints the Cabinet. A unicameral National Congress has 128 seats. Members are elected in proportion to the number of votes their party's presidential candidate receives to serve a four-year term. The two main political parties, the Liberal Party and the Nationalists, have alternated in power. There are other political parties that have some presence in the country and are also politically active.

17. The power of the military has been challenged by civil society and recently some gains have been made, but not enough so that civilians are free to make decisions which involve or affect the interests of the military. Prosecution of members of the armed forces for human rights violations are rare, and investigations into the military's role in human rights abuses have been obstructed by the army. But the civil society continues to seek justice. In 1993, the National Human Rights Commissioner released his report on disappearances, identifying security forces responsible for serious human rights abuses. The legislature has restricted the jurisdiction of military courts to military crimes committed by active-duty personnel and some successful prosecutions of police officers have occurred in civilian courts. The 1994 presidential candidate Roberto Reina of the Liberal Party won the election on the promise that he would implement economic reforms and protect human rights. He abolished the most dreaded State security agency (DNI) and replaced it with a civilian-controlled Directorate of Criminal Investigation (DIC). Against tradition, he ignored the recommendation of the chief of the armed forces in

appointing his Defence Minister. In recent years, Honduras has enacted a number of reforms which have contributed to a gradual demilitarization of society. In 1997, the national preventive police force was placed under civilian control. By constitutional amendment in 1995, compulsory military service was abolished. The minimum age for enlistment in the armed forces is 18, and no under-age recruitment has been reported.

18. The judicial branch of the Government is a subject of discussion in Honduras. There is consensus that reforms in this area are overdue. The system of justice was strongly criticized by almost everyone the Special Rapporteur met during her mission. The Supreme Court is the apex court and has nine principal justices and seven alternates. They are elected by the National Congress for a term of four years. The President of the Court is also elected by the National Congress. The powers and duties of the Supreme Court include the appointment of judges of subordinate courts and public prosecutors. It has the power to declare laws unconstitutional and to try high-ranking government officials when the National Congress has impeached them.

19. At the local level, justice is administered by justices of the peace. Their jurisdiction is limited in civil and criminal matters. Justices of the peace handling criminal cases act as investigating magistrates and are involved only in minor cases. More serious cases are handled by the first instance courts, which serve as trial courts in civil and criminal cases. The judgements of this court can be appealed to the courts of appeal. A three-judge panel hears all appeals from the first instant court.

20. The Attorney General's Office is the key to the administration of justice and represents the interest of the State. Both the Attorney-General and the Deputy Attorney-General are elected by the National Congress for a period of four years. It has been strongly recommended by official commissions and various organizations that an independent Prosecutor General's Office, with a separate investigative machinery, be created; for the last seven years the Government has considered such a reform but little progress has been made.

21. Honduras is one of the poorest countries in the Latin American and Caribbean region. The economy, which is heavily dependent on agriculture, suffered a powerful blow from Hurricane Mitch in 1998. The distribution of income is extremely unequal, with some 65 per cent of the population living below the poverty line. Honduras is also a young nation, with about 54 per cent of the population under the age of 18. The literacy rate is around 73 per cent for the population as a whole. According to data provided by IHNFA, 27 per cent of Honduran homes (280,000) have a female head of household, a situation that generally tends to indicate poverty. Around 100,000 persons aged between 13 and 24 are heads of household; 23 per cent of them are women. The formal sector of the economy employs approximately 29 per cent of the economically active population. The official unemployment rate is 40 per cent. Rapid urbanization and migration abroad in the last decades have also had a deep impact on the country's economic and social development, especially in the larger cities.

22. The HIV/AIDS epidemic is claiming a growing toll. An estimated 5,266 persons died of HIV/AIDS-related causes in 1999 in Honduras. The projected figure for 2005 is 6,400. In addition to the immense human loss and suffering, this tragedy has had considerable economic

and social costs. More than 70 per cent of the people dying of HIV/AIDS are between 15 and 49 years of age, i.e. the most economically active segment of the population. It is estimated that the number of orphans in Honduras will grow to 50,000-59,000 in the period 2000 to 2005, and that 24-29 per cent of these children will be orphaned as a consequence of HIV/AIDS.

D. The relationship between the Government and non-governmental organizations

23. The Government of Honduras generally encourages the NGOs active in the country to carry out their mandates with freedom. However, like many other Governments, the authorities remain sensitive to the image of the country abroad. Human rights organizations are often blamed if embarrassing incidents or situations of human rights violations are brought to international attention. During the visit of the Special Rapporteur, many government officials expressed their distaste for organizations which were raising the issue of extrajudicial killings of children.

24. The discomfort of the authorities was further aggravated by figures for extrajudicial killings that were published by a leading NGO. The figures included both children under the age of 18 and persons aged between 18 and 22. The list gave the names of 606 persons who had allegedly been extrajudicially killed between 1998 and 2000. (The original list includes 614 names, but it appears that 8 names may have been repeated.) Of the total of 606 individual cases, 368, or some 61 per cent, were children; the remainder were between 18 and 22. The figures indicate that 55-64 per cent of the victims were killed by unknown persons and 5-9 per cent by law enforcement agents. About 19-23 per cent were killed by civilians. In 2000 some 19 per cent of the killings were attributed to gangs, 6 per cent in 1998 and 7 per cent in 1999. In this context the Special Rapporteur wishes to note that under her mandate the term "extrajudicial killing" is generally understood to mean killings resulting from action or omission on the part of the State authorities. However, the mandate also covers the issue of impunity for killings attributed to State agents or non-State actors. The Special Rapporteur further wishes to emphasize that her mission, which was carried out at the invitation of the Government, was by no means motivated or prompted by information and allegations received through any single source. Prior to and during her mission, the Special Rapporteur received information of extrajudicial killings of children through a number of sources and, as this report will reveal, the situation is grim.

25. At the beginning of the visit, there was apparent confusion among government officials in comprehending the specificities of the Special Rapporteur's mandate. At the Ministry of Public Security and the Attorney-General's Office the Special Rapporteur was given figures for crimes, rather than extrajudicial killings. She was briefed about the socio-economic background of the minors killed by the security forces or other persons. However, there was no emphasis on the profile of the perpetrators and no clear information regarding the status of trials or investigations. Thus, the killing of juveniles was regarded and presented as primarily a question of poverty and juvenile delinquency. The entire emphasis was on the prevention of juvenile delinquency, with little thought given to finding means of preventing extrajudicial killings.

26. A number of key government officials concentrated on disputing the specific numbers given by an NGO of extrajudicial killings of children, rather than addressing the issue itself. The Special Rapporteur is further dismayed that government officials often appeared to find comfort in demonstrating that the numbers of human rights violations were lower than claimed by an NGO. She wishes to emphasize that every single incident of extrajudicial killing deserves the attention of Governments, even more so if the victim is a child. During her mission, she received strong indications that extrajudicial killings of children were far more numerous than those documented by the Government. Throughout the mission random interviews with children revealed more and more cases of such killings. The Special Rapporteur was constantly reminded by high-ranking officials that Honduras was not the only country where children were targets of extrajudicial killing. This reality, of which the Special Rapporteur is well aware, does not and should not be seen or presented as a mitigating factor by any Government. The number of children killed by security forces is increasing, and the number of countries where such violations are reported is also on the rise.

27. At the end of her visit the Special Rapporteur had the privilege of discussing the situation of extrajudicial killings of children with the President of Honduras, Mr. Carlos Flores Facussé. She was pleased at his positive and constructive response. He sincerely promised to order a deeper study of the problem and to take preventive measures.

28. The Special Rapporteur was also reassured by the commitment shown by the Human Rights Commissioner, many NGOs and the United Nations bodies in protecting the right to life of the people, especially the children.

E. The maras connection

29. Following the visit of the Special Rapporteur, the Permanent Mission of Honduras to the United Nations Office at Geneva sent a report dated 11 September 2001, entitled "Preliminary report on violent deaths among adolescents in Honduras", prepared by IHNFA. The report solidly and categorically links cases of extrajudicial killing of children with the overall occurrence of juvenile violence and the economic deprivation in Honduras. The Special Rapporteur wishes to stress that this supposed connection is misconceived. While disempowerment makes children vulnerable and exposes them to abuse and crime, juvenile delinquency can never be used as a justification for the killing of children by the security forces in the name of maintaining law and order. Undoubtedly there are violent gangs of children in the country, also known as maras or pandillas, but extrajudicial killings with impunity by security forces cannot be excused because of the existence of such groups. The killing of children by unknown perpetrators is routinely attributed to inter-gang wars between the maras. It is alarming that a section of the Honduran press often demonizes street children and blames the high level of violence in the country on child gangs. These journalists further fuel the hate speech practised by some high-ranking politicians and business leaders who deliberately incite public sentiment against street children. In this way violence against and even the killing of these children is trivialized and encouraged. In the end, every child with a tattoo and street child is stigmatized as a criminal who is creating an unfriendly climate for investment and tourism in the country.

30. The Special Rapporteur was told of a particular television show which regularly used hate speech against the maras. Its message was that they deserved to be removed and cleansed from society. She met a traumatized young man of about 15, Jeffrey Gamboa, who said that he had been picked up by the police in late July 2001 and forced to appear in a television programme "TV 30-30", displaying his tattoos. According to Mr. Gamboa, the notorious "Chinaman" (a police officer feared by all street children) accompanied by other police stormed into his house and took him at gunpoint to the television station, where a journalist interviewed eight children. The witness insisted that he was threatened with death by the police if he did not say what he was told to say before the cameras. Out of the eight boys appearing on the programme, three were allegedly killed by unknown persons within a few months of the broadcast. Jeffrey Gamboa was being given physical protection by a local NGO, which confirmed that the three children had indeed been mysteriously killed and that they feared for the life of Jeffrey Gamboa.

31. Some independent journalists the Special Rapporteur met with were deeply disturbed by what they described as "the criminalization of poverty" and the media making crimes against children respectable. The myths surrounding the lives of the maras are presented in such a way as to constitute a virtual licence to the security forces and other vested interests to kill street children. These are children who are already victims of a political, economic and social system which is robbing them of their childhood and youth. The poverty and injustice that surrounds them is the result of a harsh and irresponsible political system they are being forced to inherit.

32. The Government of Honduras acknowledges that crime amongst children constitutes 5 per cent of all crimes and misdemeanours recorded in the country. A study conducted in 1999 by IHNFA, with the support of UNICEF, showed that 0.02 per cent of all murders committed in Honduras were attributed to children. Nevertheless, government officials and the media insist upon laying the entire blame for the bulk of all crimes on street children. They repeatedly try to give the impression that the majority of the children killed were casualties of gang wars, which is incorrect and leads to false conclusions. The official record shows that in the first six months of 2001, 66 minors were killed. Human rights organizations put the number higher. The vast majority of these cases remain unresolved and the perpetrators are unknown. The Government confirms that more than half of the reported killings of children remain unsolved. NGOs suspect that these killings cannot be carried out without official patronage; the numbers are too high for them not to be orchestrated and planned. The information available suggests that these killings could indeed be carried out by groups or individuals, operating with or without official patronage. Regardless of the identity and connections of the perpetrators, the Government bears a responsibility to investigate and solve the killings. They are rightly expected to make concentrated and serious efforts to identify the source of the killings and to protect the public from further violence. So far the efforts have been lukewarm and have not addressed the atrocities in a serious and responsible manner.

33. There are several youth gangs in Honduras. Dominant among them are the "Mara Salvatrucha" (better known as the MS) and the "18" gang, which is named after 18th Street in Los Angeles. The Office of the Secretary for Public Security in Honduras claims that over 31,000 youngsters belong to gangs. A quarter of them are females. NGOs put the figure much higher. The gangs operate throughout the country but are more visible in the urban centres of Tegucigalpa and San Pedro Sula. A youth gangs culture has existed in Honduras for decades,

but in recent years children have imbibed the culture of violence around them, and at the same time their abject neglect has made gang life seem more attractive as a source of security and as a community to which they can feel attached. The Special Rapporteur interviewed several children, including members of maras, many of whom had witnessed the extrajudicial killing of their friends in the streets or in custody. During these discussions she felt a great sense of remorse, as many of the children had hopes and aspirations for a better life. The children interviewed by the Special Rapporteur reported that any child who became a "Christian" could safely leave the gang without fear of reprisal. Two such children had left the gang life and were being supported by NGOs and Church members to pick up the threads of normal life. The children were being protected because of fears for their safety.

34. The Special Rapporteur met a juvenile judge in San Pedro Sula, who showed her a number of chimbas (primitive handguns) made by gang members, or mareros. The judge regretted that the talents of the children were being used for their own destruction, when the same creative energy could help to build Honduran society. The mareros are armed mostly with chimbas, though some of them manage to lay their hands on sophisticated weapons. A number of children admitted that they get ammunition from the armoury run by the military to provide pensions for retired soldiers. The Special Rapporteur visited the armoury to verify these allegations. She found that while records were kept for every weapon that was sold, there were no records of purchasers of ammunition.

35. Mareros come from the most disadvantaged sections of society. Almost 8 out of 10 children interviewed by the Special Rapporteur came from a single-parent family - the mother being the sole parent in each and every case. The IHNFA report referred to above describes a typical profile of a marero in the following manner:

> "An adolescent or young person, usually male, living in a poor district; the child of relatively poor parents, reproducing his parents' conditions of poverty and deprivation in a second generation. Like his parents, as a general rule he has a low level of school achievement, and works in unskilled, relatively low-paid jobs. In general, it can be said that mareros have grown up in homes that are materially and emotionally deprived in a number of ways ... The marero or pandillero is, generally speaking, an adolescent or youth characterized by academic failure ... Rejected by the formal education system which offers career prospects, their desire to succeed makes them suitable candidates for technical vocational training that would enable them to become productive members of society. Adolescents and youths who are gang members spend a good deal of time in the street. What prompts them to join the world of gangs is a desire for social identity, for pleasure and hedonism, companionship and the feeling of power and social recognition that comes from being a member of a group that affords protection, support and social visibility ... During the gang socialization process, adolescents and youths have many opportunities to sample drugs and the life of crime that is a result partly of the need to obtain money for drugs and partly the effect that drugs have ... on their own humanity."

36. The gangs fight one another other for territory. Every gang has its own sign language, slang, style of dressing, haircut, and music or sound tracks. These symbols define their identity and confirm their bond to the gang. Children are generally not physically forced to join gangs, but peer pressure along with other social factors attract them to gang life. Once they become

members, they enter a harsh life where violence and drugs (mostly low-priced drugs and glue) play an important part. They go by their nicknames and are organized by the name or numbers of their streets. The most respected gang member is the "Mister", who has "earned" the title through his acts. In one particular discussion, the status of the "Mister" was made clear to the Special Rapporteur by young mareros who, in response to her questions about their "leadership", rolled their eyes in admiration while introducing a "Mister", who shared the same room in the detention centre with the others but kept his distance to maintain his status.

37. Some Honduran children wear tattoos. Gang members are specially required to do so by their peers, as the tattoo identifies the gang they belong to. Each tattoo has a story, a symbolic meaning or a saying behind it. A teardrop signifies the death of a "buddy". A cobra shows the position of the gang member. These tattoos represent the gangs to the outside world, and every child who has one, whether or not he or she belongs to a gang, is hunted down, by the security forces or other unknown persons. An NGO has acquired a tattoo-removal machine and several children have taken advantage of it. However, in the end it is not tattoo-removal machines or NGOs that can protect children from being gunned down. Their protection has to be guaranteed by the State, which must ensure that the present de facto blanket impunity for the killing of marginalized children in Honduras ends without delay.

38. Girls are also gang members. Some of them explained that they are expected to "get tough" when they become members. They are beaten and roughed up by their male peers. They are specially vulnerable, but easier to extract from gang life. In the male detention centres members of different gangs were kept apart. Each gang was confined to its own ward, as gang animosity continued unabated. The Special Rapporteur was encouraged to observe that the girls, on the other hand, mixed easily. Their sisterhood had transcended the boundaries of hatred and violence.

F. Voices of the children

39. The Special Rapporteur was overwhelmed, disturbed and distressed after the several meetings she held with children in Honduras. Many were mareros, others were not. What they all shared was the poverty and insecurity that stems from social, political and economic injustice. The Special Rapporteur is conscious that millions of children around the world suffer under similar circumstances. This is an alarming situation and does not bode well for the future of any society. The child population in the many countries of the developing world is increasing. Children outnumber adults, and yet their future is not secured. A large number of children are neglected, ignored and marred by violence at a very early age. They have better access to arms and narcotics than to books and knowledge. They live in the street rather than in a home, and rough experiences in place of a childhood.

40. There must be a general realization that street children, or for that matter poverty in all its manifestations, are not "a necessary evil". Poverty has a cure, which requires patience, sincerity and sound planning. Above all it requires the political will and courage to eradicate poverty through an effective programme built on justice for all. In particular, an appropriate level of resources has to be spent, and economic justice for children calls for new thinking in the way budgets are planned. None of the children interviewed by the Special Rapporteur asked for mercy, charity or help. What they wished for was to live in dignity and security: they were

calling out for a chance to enjoy their rights as children. While each of the discussions was unique and often impressive, some of the stories the children told stand out as particularly symptomatic and illustrative of their everyday hopes, fears and aspirations. Here, the Special Rapporteur would like to share some of the words that have stuck in her mind:

"I want to make my mother proud."

"Get the 'Chinaman' out of our lives, I don't want to die in the mountains."

"I want to take off my tattoo, but I need my friends."

"No one cares for us, they are all too busy."

"I want to become a technician, so that I can help my mother."

"Our motto is: 'My friend, live for your mother and die for your hood'."

"I want to go to the USA as there is nothing here for me."

"I want to study and be in school."

"I want to leave this life of misery and live peacefully without fear."

"I want peace with the police."

III. ALLEGATIONS OF VIOLATIONS OF THE RIGHT TO LIFE

A. Alleged extrajudicial killings of children and juveniles

41. Prior to her mission, in the year 2000 the Special Rapporteur formally submitted 47 individual cases of alleged extrajudicial executions by the police to the Government of Honduras. In 29 of these cases the victim was said to be under the age of 18. While on mission, the Special Rapporteur resubmitted the cases she had sent to the Government in 2001 by a letter addressed to the Minister for Public Security. She wishes to take this opportunity to relate some of these allegations of extrajudicial killings, as an illustration of the situation.

42. In the last few years, the Special Rapporteur has been informed of and acted upon several cases where minors were said to have been killed as a result of excessive use of force or blatant neglect and denial of medical care by law enforcement officials. In a letter addressed to the Minister for Public Security of 6 August 1999, the Special Rapporteur raised the case of Alexander Obando Reyes, 17 years of age, who was allegedly killed by police in April 1999. It was reported that Reyes was in a park in Tegucigalpa together with a friend when, at around 10 p.m., a police officer appeared and opened fire, injuring Reyes in his abdomen and chest. Reyes allegedly died the following day at hospital. It was reported that the police officer implicated had not been arrested and prosecuted for this act.

43. In the same letter, the Special Rapporteur also referred to the case of Edy Nahum Donaire Ortega, 17 years old, who died after having been shot by police officers on 21 January 2000. It appears that Ortega had been arrested and was being taken back to the police station after having appeared before a court, when he escaped. A police officer reportedly apprehended Ortega, who was unarmed, and shot him in the leg. He allegedly died from loss of blood, as the bullet had severed an artery. It appears that the police officer concerned was detained and was awaiting trial. However, there were allegations that the investigation into the case had been technically inadequate and deliberately slow. In her letter the Special Rapporteur asked for an update on this case.

44. The Special Rapporteur also raised the case of Francisco Javier Espinoza, 17 years of age, who allegedly died in police detention in Tegucigalpa on 28 January 2000. It is reported that on 28 January Espinoza had tried to rob a bus, when he was assaulted by a passenger who beat him with a metal tube, resulting in severe head injuries. It is alleged that after having been briefly detained at police post No. 6 in Colonia Kennedy in Tegucigalpa, Espinoza was taken into custody at regional police station No. 1. It is reported that he did not receive any medical attention, despite severe bleeding from his head injuries. After having been held in his cell for some eight hours, Espinoza allegedly went into convulsions. Police officers apparently put him in the back of a pick-up truck and took him to the Teaching Hospital, where medical staff reportedly refused to treat him, stating that he was under the influence of drugs or alcohol. Espinoza died on his way back to the police station. While it appears that investigations have been carried out into this case, it is not known whether anyone has been held responsible for the negligence that caused the death of the victim.

45. In relation to the deaths of Alexander Obando Reyes, Edy Nahum Donaire Ortega and Francisco Javier Espinoza, the Special Rapporteur wishes to make reference to the following international human rights instruments, which are of particular relevance in these cases. Under principle 9 of the Basic Principles on the Use of Firearms by Law Enforcement Officials, "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of particularly serious crime involving grave threats to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (emphasis added). Furthermore, under article 6 of the Code of Conduct for Law Enforcement Officials, "Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required."

46. Prior to her mission, on 18 June 2001, the Special Rapporteur submitted the following allegations of extrajudicial killings to the Government, with a request that she be informed of any investigations undertaken with a view to bringing the perpetrators to justice. According to the information received, on 25 May 2001 the dead bodies of Cinthia Valeska Rivera, 14 years of age, and another juvenile of 15 were discovered near El Estiquirin in Comayaguela in

Tegucigalpa. It was reported that the two girls had been shot in the head after having been raped. The identity of the perpetrator or perpetrators was unknown. On 6 August 2001, the Government replied, stating that the case was being investigated and adding that preliminary police investigations into the case of Cinthia Waleska Rivera suggested that the girl might have been killed by members of the "18" gang.

47. Throughout her mission, the Special Rapporteur had the opportunity to listen to testimonies of persons, including many children, who alleged that they had personally witnessed extrajudicial executions. She also met with family members of victims of such killings. Their stories largely supported earlier reports of extrajudicial killings conveyed to the Special Rapporteur. While many testimonies did not shed much light on the identity of the perpetrators of the majority of the cases under scrutiny, other incidents related to her were attributed to uniformed police officers. The children in detention centres reported a number of cases where they had seen the police kill another child. One out of four children in these centres related incidents of extrajudicial killings of children witnessed by them.

48. In Tegucigalpa, the Special Rapporteur talked to two adolescents, around 16 years of age, who said they had witnessed the same incident. According to their testimonies, on 20 June 2001, at around 11 p.m., they were rehearsing with their rap-group in a neighbour's house when several police officers forcibly entered the house. The police allegedly grabbed two of the teenagers and dragged them out of the house, and told them to run and never come back. When they started running, one of the police officers reportedly opened fire. It is alleged that three bullets hit one of the boys in the head and he was killed instantly. The other teenager managed to escape. However, when other police officers came to pick up the body, they reportedly apprehended the other boy, held a gun to his head and threatened to kill him if he reported that his friend had been shot by the police. Allegedly, the investigative police refused to take up the case and blamed the killing on the gangs.

49. On 20 July 2001, in the Sipile neighbourhood, Comayaguela, Juan Ramón, aged 16, José Germán Coello Madina, aged 15 and Miguel Angel Mendoza, aged 18, were allegedly approached by a National Preventive Police patrol with the registration No. MI-26. One of the policemen wore the name-tag "Sanchez". The police allegedly asked for documents from the three youngsters and threatened them, upon which Juan Ramón started to run, as he had previously been badly wounded by the police. According to the other two eyewitnesses, the police opened fire on Ramón just as he was about to turn a corner. The police refused to take the injured boy to hospital, and he later died of his injuries. A case was registered but at the time no one had been arrested.

50. On 7 April 2001, José Giovanni Lainez, 17, was sitting on a stone outside his school when he was approached by police officers, who ordered him to stand up. As he did not do so, the police reportedly opened fire. The bullets hit his leg and he was taken to the hospital by the police. His family was not allowed to see him, nor were they informed by the hospital authorities that he had been removed from the hospital by the police through a back door. The boy's mother was told that her son was alive when he left the hospital. Later she was handed her

son's body with a clear bullet wound between the eyes. She appealed to police authorities to arrest the killers. Her pleas went unheard and she was ridiculed at every step she took to secure justice. The mother knows the names of her child's killers and she carries her son's photograph with a crumpled paper relating to the incident next to her chest, in search of justice.

51. The mother of Oscar Daniel Madina Córtez, age 16, recounted her agonizing experience. Oscar Córtez and two other friends, one of them identified as José Luis Hernández, aged 14, were returning home on bicycles when they were stopped by a police car around 6.30 p.m. on 11 January 1998 near a square in San Pedro Sula. Hernández escaped and informed Córtez's mother of the incident. She panicked, and went to plead with the police to spare her child. She was told to look for him in the cane fields or to wait at home and listen to the news on the radio. In the middle of the night Mrs. Córtez's neighbour informed her that she had received a phone call to say that the car in which her son was kidnapped was spotted by people in the area. Mrs. Córtez again went to the police, who drove her around in search of the car but could not find it. The next day the neighbours informed Mrs. Córtez that the police had called to say that her son's body and that of his friend had been found in a banana field. Their skin had been pierced and their genitals cut off. One of them had a bullet between the eyes and another in the back. Mrs. Córtez said that she had tried to file a complaint against the unknown police perpetrators but was not able to do so. Moreover, no one was willing to come forward to give evidence.

52. Numerous witnesses claimed to have seen policemen deliberately and without provocation kill children belonging to the economically disadvantaged sections of society:

> Chico said that he saw his neighbour, a 14-year-old, killed by police driving in a car without a licence plate. The boy had come out of the house to see his friends. As he stood by his door he was shot. His mother came running out and saw her dead son on the doorstep. Nobody was willing to appear as a witness to the incident.
>
> A taxi driver had complained to the police about the neighbourhood children who regularly threw stones at his taxi. The police accompanied him to the spot and opened fire, killing by mistake the son of the taxi driver.
>
> On 20 June 2001, Sara Alvarado took her daughter to the hospital, where her neighbour followed her to inform her that her son, Juan Ramón Antunes Alvarado, had been shot dead by the police. Juan studied at a private technical school and was not associated with any of the gangs. Mrs. Alvardo said that a number of people had witnessed the incident. They said that the police had cornered three boys and opened fire, killing her son, while the other two miraculously survived.

53. An eyewitness described to the Special Rapporteur how on 7 April 2001, Cristián Lizandro Ramírez Diaz, aged 18, and Wilmer Alfredo Romer were assaulted and killed by two policemen. The Special Rapporteur also spoke to Wilmer Alfredo Romer's mother who corroborated the witness's testimony. The two boys lived in the municipality of Potrerillos, Cortes, and were killed in the presence of their friend Iván Canales, who managed to escape. According to Canales, the three were sitting in his parked car at around 3 a.m. when two policemen forced them at gun-point to drive towards Pimienta municipality. As they crossed the

intersection of Campo Blanco the police ordered them to stop the car, get out and lie on the ground on their stomachs with their arms in front of them. They were allegedly shot several times in the head. Canales managed to run away. A complaint was lodged against the accused policemen. One of them has not yet been arrested. The second policeman was arrested, but the trial has not yet started.

54. Witnesses also gave accounts of groups of armed men in civilian clothes driving around in unmarked vehicles. The men were said often to wear masks and use new and sophisticated automatic rifles. There were repeated allegations that these groups had on several occasions forcibly apprehended and abducted children or youths, who were never seen again. Witnesses further claimed that the police failed to take action to apprehend these persons, and at times actively covered up their activities. Some observers drew parallels between these groups and members of the notorious Batallion 3-16. There were some common elements in most testimonies heard by the Special Rapporteur. The alleged killers usually drove vehicles, often pickup trucks, without number plates and with tinted windows. Dead bodies of street children killed by unknown perpetrators have been found in deserted areas in the hills and mountains outside the cities. The children appear to have often been tortured before being shot between the eyes. Every child the Special Rapporteur talked to in Tegucigalpa alleged that the "Chinaman" was the key person behind these human rights violations.

55. Apparent in all the testimonies was the utter distrust and pervasive fear of the police among disadvantaged children and their families, which is kept alive by impunity and indifference. In such a climate it is difficult even for local NGOs and human rights defenders to document cases of extrajudicial killings. This is especially true in the case of children, who can easily be silenced. The Special Rapporteur realized during her mission that the data gathered and reported by NGOs merely indicated a trend and, as many of them suggested, appeared to be only the tip of the iceberg.

B. Impunity

56. Investigations were hardly ever carried out in the large number of cases of children killed by unknown perpetrators. The Attorney-General's Office briefed the Special Rapporteur regarding two lists of children killed. The office was reviewing 235 cases of the 606 cases identified by NGOs (see para. 24). Of these, 25 cases were in the preliminary trial state, 6 were at the sentencing stage and in 2 cases the trials had concluded; persons had been arrested in 16 cases. All these incidents had occurred before December 2000. The other cases were either being examined or the prosecution had been dropped. Data provided by NGOs indicate that 61 per cent of the cases were never investigated. The victims were not heard and, despite their insistence, their statements were not considered. Two witnesses of two different incidents told the Special Rapporteur of dead bodies of children found in the streets in the morning. According to the witnesses, the bodies were later removed by the police but no report of the murders was made available. Other reports submitted by NGOs allege that in three separate instances no report of a killing was made in police records after five dead bodies of children shot

by unknown persons were recovered. The Special Rapporteur met at least 10 families of victims who complained that whenever they approached the police, they were not listened to; on the contrary, they were jeered at for daring to pursue the matter further. While relating their encounters with the police, two mothers began to cry bitterly at the humiliation and hurt they had suffered and the helplessness they experienced during their period of grief.

57. There was a widespread belief that many of the unidentified killers of children were either members of the security forces themselves or private guards who operated under the patronage of the security forces. The Human Rights Commissioner told the Special Rapporteur that such suspicions were "well founded", as the pattern of such killings and subsequent cover-ups could only be carried out with the support of the authorities. He was hopeful of seeing a more transparent system as he sensed a change in attitude, but was also mindful of the resistance by vested interests who saw street children as an obstacle to economic development in the country. At the same time, the Commissioner was also acutely aware that public opinion was turning increasingly aggressive against street children.

58. In this connection, the Special Rapporteur wishes to note two specific cases which were brought to her attention, which clearly illustrate the prevailing climate of indifference and impunity in relation to killings of children. Alexander Joval Villatoro, a taxi driver, told the Special Rapporteur that he was taking two passengers to Capcamo when a police officer, who was out of uniform, insisted on riding with the other passengers to the destination. Near Capcamo the policeman asked the taxi driver to stop at the roadside where three boys were waiting for him. The policeman spoke angrily to the boys and asked them why they had run away. He seized the oldest by the shirt and pulled at him roughly. At this point the driver became frightened and drove off. The next day he heard on the news that three boys had been killed at the spot where he had dropped off the policeman. The taxi driver and a female passenger who was with him testified against the policeman, who was arrested. Since then there have been four attempts on the life of Mr. Villatoro, and he has been threatened by the family of the accused policeman. Several months after the incident Mr. Villatoro was arrested and sent to jail on charges of drug-related offences. Finally, on 5 August 1999, he was acquitted and released but he still lives in fear. He told the Special Rapporteur that he had moved house several times and was not able to testify against the accused policeman.

59. Antonio Ramón Calero, aged 17, was reportedly arrested on 24 November 1999 by the Criminal Investigation Department (DGIC) on charges of robbery and causing of injury. The next day he was to be produced before the juvenile judge, but owing to non-availability of staff, he was taken back to the DGIC. According to the information received, Calero tried to escape and jumped out of the vehicle. He was allegedly shot and 10 days later he died of his injuries. No inquiry or investigation was reportedly carried out.

60. In the beginning of the mission, the Minister for Public Security briefed the Special Rapporteur about the root causes of extrajudicial killings on the presumption that the mandate of the Special Rapporteur included all forms of killings. The Minister was very critical of parents of street children whom he described as "irresponsible", and blamed them for neglecting their own children. He said that the manner in which children led their lives exposed them to killings, which he felt had no bearing on the State. He had received no reports of police involvement in the killing of any child. The children, according to him, were killed in encounters because "they

(the children) are out of their minds". He recounted an incident where a child had raped his mother and sister as an example of children who were "mentally abnormal" and cautioned the Special Rapporteur in making comparisons in the behaviour of children in the "first and the third world". Children of the third world, according to his analysis, matured sooner and therefore deserved the same treatment as adults who broke the law. He also said that the police were not responsible for dealing with social problems, which were mainly the concern of IHNFA. However, in his view, IHNFA lacked the resources and skills to deal with the problem of street children effectively.

61. On 14 August 2001, the Special Rapporteur held a follow-up meeting with the Minister for Public Security, during which she also raised the cases referred to in section A above and other incidents related to her by witnesses. The Minister readily admitted that impunity was a deeply rooted problem perpetuating human rights violations, including extrajudicial killings. He attributed many of these irregularities to poor training of judges and political interference in the work of the judiciary. He pointed out that judges were often appointed on the basis of their politics and contacts rather than their professional or academic competence. He stressed that legal reforms could only achieve limited results as long as the same individuals remained on their posts. He noted that his Ministry had already started purging the police force of unsuitable staff, especially those responsible for abuses of authority or human rights violations. New recruits were being trained, but in the meantime the Honduran police remained weak. The Minister stressed that the lack of professional investigators was particularly critical.

62. During the meeting the Minister also presented the Special Rapporteur with comprehensive dossiers containing information about cases she had raised in her correspondence with the Government. The material referred to the cases of the following minors: Victor Daniel Ruiz, Gerson Edgardo Calix Núñez, Ángel Gabriel Bonilla, Esteban Varela Pérez, Willmer Alberto Bonilla, Alexander Obando Reyes, Noe Alejandro Álvarez Rivas, Luis Alfredo Villanueva and Ermelindo Aguilar. According to this information, investigations had been launched into all of these alleged cases of extrajudicial executions by police officers perpetrated between March and October 1999. In one of the cases the suspect had been detained, and in one an arrest warrant had been issued.

C. Alleged extrajudicial killings and death threats against members of indigenous communities, environmental activists and human rights defenders

63. During her mission, the Special Rapporteur received reports and heard testimonies about cases in which environmental and indigenous activists had been killed at the behest of powerful landowners and business people. In most of these cases, it was alleged that the perpetrators enjoyed virtual de facto immunity from prosecution because of their social status and political connections.

64. Reports indicate that at least 25 indigenous leaders have been killed in the last 10 years in Honduras. NGOs and local activists allege that the authorities have taken little or no action to bring those responsible to justice. Most of these killings have been carried out in the context of land disputes and have often been attributed to individuals or groups with links to the local authorities, business people and the military. On 18 June 2001, the Special Rapporteur sent a letter of allegation to the Government regarding the case of Carlos Roberto Flores, an activist

and leader of a community affected by the construction of a hydroelectric dam on Rio Babilonia. It was alleged that Mr. Flores was shot dead on 30 June 2001 by private security guards, in connection with a demonstration against the project in Gualaco, Department of Olancho. Reportedly, members of the community had received death threats after they had expressed their opposition to the construction, which, in their view, was threatening the environment and the livelihood of the local people. In her letter, the Special Rapporteur urged the Government to inform her of the steps taken to investigate the killing of Mr. Flores and to protect the rights to life and personal security of other members of the community concerned. It its reply of 14 June 2002, the Government stated that on 24 May, as well as on 2 and 5 June 2001, Mr. Flores, together with several other persons, had attacked vehicles, installations and employees of the hydroelectric company Energisa. Following these incidents an arrest warrant had been issued for Mr. Flores and seven of his associates. The letter further indicated that an arrest warrant had been issued for five persons believed to be responsible for Mr. Flores' murder. However, none of the suspects, all believed to employees of a private security firm, had been apprehended.

65. On 3 August 2001, the Special Rapporteur sent an urgent appeal following reports that Mr. Flores' family and several other members of the community, including children, had been subjected to more death threats, presumably from persons connected with the above-mentioned private security guards.

66. While in Tegucigalpa, the Special Rapporteur met with family members of Carlos Luna López, a local official in Catacamas, Department of Olancho. Mr. Luna, who was active in campaigns for social justice and environmental protection, was killed on 18 May 1998, while investigating claims of illegal logging in the municipality. It is believed that influential business people in the timber industry, who had previously threatened Mr. Luna, were responsible for his murder. While the person who carried out the murder is now in detention, it is alleged that the persons who ordered the killing remain at large and have not been investigated or prosecuted for this crime. In a letter of 10 August 2001, the Special Rapporteur requested the Government to inform her of the investigations undertaken in this case. During the Special Rapporteur's follow-up meeting with the Minister for Public Security on 14 August, the Minister gave her documents describing the investigations. The material, which was dated 8 September 1999, gave an overview of the police investigation into the case, without further explaining the outcome of any criminal proceedings initiated.

67. The situation of Honduran human rights defenders has been difficult in the last few years, with several activists having received death threats. On 5 June 2001, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders regarding the case of Pedro Marchetti, a priest and human rights defender. It was reported that a powerful local politician had hired gunmen to kill Fr. Marchetti who, over the years, had helped peasant farmers to defend their land against the claims of large landowners. He had also been campaigning for justice in the 1997 murder of environmental activist Carlos Escaleras. In its reply of 2 July 2001, the Government of Honduras stated that the competent authorities had drawn up a security plan for Fr. Marchetti's protection and that investigations into the threats had been initiated.

D. The right to life of members of sexual minorities

68. During her visit, the Special Rapporteur also had the opportunity to talk to representatives of sexual minorities and organizations working to protect and promote the human rights of these persons. Among the allegations brought to her attention were several reports of death threats and killings directed against members of sexual minorities. In 1999, a young gay man was allegedly shot dead by private security guards close to a gas station in San Pedro Sula. When members of an NGO tried to report the case to the police, they were allegedly threatened and verbally abused at the police station. The Special Rapporteur was told that no investigation had been carried out into this killing. Similarly, in May 2001 a transsexual sex-worker was reportedly murdered behind the San Pedro Sula Cathedral. While it is reported that the police removed the body from the scene, it is alleged that no investigations have been initiated into the case. Non-governmental sources alleged that some 200 gay and transsexual sex-workers were killed in Honduras in the period 1991-2001. Reportedly, few of these cases have ever been officially recorded, and fewer still investigated.

E. Steps taken by the Government of Honduras

69. As mentioned earlier in this report, on 11 September 2001, the Permanent Mission of Honduras sent a letter to the Special Rapporteur transmitting the IHNFA report entitled "Preliminary report on violent deaths among adolescents in Honduras". The document is a compilation of contributions from a range of Honduran public institutions covering various aspects of the issue, including the economic and social conditions in the country, and containing a brief description of the problem of juvenile violence and delinquency in Honduras. The document also contains a short commentary on a report by Casa Alianza on alleged extrajudicial killings of minors.

70. A chapter of the report describes a range of initiatives taken by State institutions with regard to violence among and against juveniles. In this connection, the Special Rapporteur was informed that the Ministry for Public Security had set up the following prevention programmes: (a) Training in Resisting and Preventing Maras (EREM) - a training and awareness-raising programme for children in the fifth and sixth years of primary education; (b) the "Challenges" programme, aimed at the adolescent population; (c) the "Wake up" programme, aimed at parents and community leaders; (d) the "Basic facts about Maras" (COBAMA) programme, aimed at primary, secondary and higher education teachers; and (e) the internal police training programme. According to the report, more than 9,900 young people, 3,511 parents, 862 teachers and 154 police have been involved in these programmes so far. It was also explained that IHNFA was offering a number of services, including: (a) community family care; (b) vocational workshops for adolescents "in social risk situations"; (c) immediate temporary protection for child victims of serious abuse; (d) promotion of adoption of children with no family; (e) scholarships; and (f) implementation of precautionary and correctional measures imposed by court decisions against adolescents who committed criminal offences. This includes programmes of non-custodial measures for juvenile offenders.

71. In its report IHNFA also noted that in its report on the implementation of the observations and recommendations of the Committee on the Rights of the Child, the Government of Honduras had noted, inter alia: (a) the post of National Human Rights Commissioner had

been ratified by constitutional reform through Decree No. 191-94 of 15 December 1994; (b) the Domestic Violence Act had been adopted by parliament; (c) compulsory military service had been abolished by constitutional reform in 1995; (d) the Code on Children and Adolescents had been adopted, faithfully reflecting the principles of the Convention on the Rights of the Child; (e) new legislation consistent with the Convention was being adopted, particularly in regard to age-limits for employment and criminal responsibility; (f) a new code on children and juvenile justice had been adopted; (g) seven children's courts were in operation in Honduras (Tegucigalpa, San Pedro Sula, Santa Rosa de Coán, El Progreso, La Ceiba, Juticalpa and Choluteca); (h) the Office of the Special Prosecutor for Children and the Disabled was created.

72. It is noteworthy that in its report the Government noted that the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions is very clear and does not cover violence characteristic of a social problem such as increasingly violent youth gangs, a problem that the State of Honduras is beginning to study with a view to taking measures. At the same time, however, the Government stressed that adolescent deaths are a major concern for the State, which was making every effort to find the perpetrators and combat impunity. In the report IHNFA also recommended that criminal investigations should be undertaken into all cases of violent deaths among young people reported by national and international non-governmental organizations. Significantly, IHNFA recommended that the judicial system be strengthened, "in particular the juvenile criminal justice system to ensure that the population is aware that it works properly and will in fact resolve cases, in order to prevent people, or particular groups of people, from taking justice into their own hands" (emphasis added). The report also recommends that the Special Rapporteur on extrajudicial, summary or arbitrary executions be kept informed of progress made in investigating and establishing responsibility in reported cases.

IV. CONCLUDING REMARKS AND RECOMMENDATIONS

73. The material collected and analysed for the present report makes it abundantly clear that children have been killed in Honduras by members of the security forces. In most of the cases the child was unarmed and did not provoke the police to use force, let alone lethal force. There have been very few investigations and trials in incidents of extrajudicial killings and convictions are exceptional. In addition to institutionalized impunity, there is a campaign to build a public opinion which supports the "cleansing" of the streets of Honduras of undesirable children.

74. The action taken so far by the Government has not delivered a clear message to the police that they will be brought to justice for abuse of authority or for human rights violations. Neither have powerful groups suspected of having been involved in such crimes been apprehended or given a signal by the authorities that they cannot resort to murder under the pretext of trying to create a climate for economic revival. The Special Rapporteur wishes to remind the Government that it is ultimately the human rights record, stability and rule of law of the country that will inspire confidence among donors and investors, not high-handedness and violence by the powerful against the more vulnerable members of society.

75. The Government of Honduras has taken a number of laudable steps towards honouring its commitments to the welfare of children. However, these initiatives have so far largely focused on needs-based charity, rather than on prioritizing the rights of children within an overall framework for the protection and promotion of human rights in Honduras. In this way, children are often not seen as subjects who have rights, but as objects who may be granted charity and privileges.

76. Children, like adults, are entitled to receive information, in particular about their status and rights. Information about the extrajudicial killing of children should be made available and accessible. Information on all governmental and non-governmental initiatives and projects seeking to protect the rights of children should be made available in places frequented by children. The media should be encouraged to play a proactive role in this area.

77. The Government of Honduras has set up juvenile courts to address the country's mounting problem of juvenile delinquency, and measures have been put in place to protect the rights of children in custody. However, these steps have not served to protect the right to life of children, nor do they ensure that the perpetrators of extrajudicial killings are apprehended and punished. The juvenile courts also do not generate information about child victims. While crimes committed by children could easily be analysed on the basis of data collected by the juvenile courts, the Special Rapporteur was not given any reliable official records on crimes committed against children. The monitoring of every single trial of such cases places a heavy burden on the human and other resources of non-governmental organizations and other semi-autonomous institutions with a mandate to monitor child rights. In order to better understand the situation and have a solid basis for sound policy decisions in this area, the Government needs to systematically generate reliable aggregate data on crimes and human rights violations committed against children, especially extrajudicial killings.

78. The Government of Honduras is urged to consider setting up an independent redress mechanism, such as an ombudsperson for children. Such institutions are in place in a number of countries, and Honduras should be encouraged to seek advice and support on this issue from other Governments and international agencies. The office of the ombudsperson should have quasi-judicial powers and be provided with an independent investigative machinery. Amongst other functions, three are particularly important:

(a) The independent mechanisms need to be mandated to receive and act upon individual cases of extrajudicial cases which the competent authorities fail to register or prosecute;

(b) It should keep a complete record of extrajudicial and other killings of children and monitor the progress made in the investigation and prosecution of each case;

(c) It should be mandated to compile periodic reports reflecting the work it has undertaken and publicizing the findings and recommendations it has presented to the Government.

79. All killings of children must be thoroughly investigated. The Government must meet its obligation to resolve the mystery of the children who have been killed by unknown perpetrators.

The Government should set up a commission, with the participation of non-governmental organizations and the National Human Rights Commissioner, to study the situation with a view to formulating concrete recommendations and policy guidelines to ensure that these killings are thoroughly and independently investigated, and that those responsible are brought to justice without delay.

80. A large number of the child victims have been killed by employees of private security companies. It is the responsibility of the Ministry for Public Security to put in place rules and procedures to monitor and supervise the operations of these companies. Particular emphasis should be placed on the use of firearms and other lethal force by private security guards. These companies should under no circumstances be regarded as a substitute for or be allowed to take over the functions of the law-enforcement authorities.

81. Years of armed conflict in Central America have left the region awash with small arms and munitions. While efforts aimed at curtailing arms trafficking are important, the authorities must ensure that the officially sanctioned sale of arms and ammunition is strictly controlled, and that relevant laws and regulations are consistently enforced. The Government should urgently carry out a thorough review of the laws and practices pertaining to the licensing and sale of firearms and ammunition, with a view to ensuring that the number of officially licensed guns is significantly reduced and that persons wishing to purchase such items are thoroughly screened before they are given a licence.

82. The Hondurans, children and adults alike, will not receive justice unless the legal and judicial systems are made independent, efficient and transparent. Recommendations on strengthening the judiciary have been made by various commissions appointed by the parliament and by the Bar Associations. General recommendations on this issue are also regularly submitted by the Special Rapporteur on the independence of judges and lawyers. The Government is urged to study these recommendations and seek technical assistance with a view to strengthening the country's justice system.

83. The relevant government authorities should arrange special orientation courses with a strong rights element for officials who come directly into contact with children. United Nations agencies are encouraged to extend technical support for this.

84. The Honduran media have a heavy responsibility in denouncing violence and demanding an end to impunity for extrajudicial killings of children. The media and government officials, especially those in higher authority, must interact with, listen to and hear the voices of children before making decisions for children or suppositions about them. The media, in cooperation with the relevant authorities, could play a crucial role in sensitizing the public and bringing about a culture of respect for the rights of children and adolescents, in particular their right to life.

85. The Special Rapporteur was impressed by the commitment of non-governmental organizations working in the area of child rights. The dedication and empathy of some individuals within those organizations gave hope and strength to children. Because of the complex, sensitive and often traumatic circumstances of the killings of children, such cases should be entrusted to staff with special training and be supervised by senior staff.

86. The Church should also be supported and encouraged in its work with street children, so that it remains available to assist and support children and adolescents who are trying to leave the street gangs.

87. Children form the majority of the population in Honduras. They are also the most vulnerable section of society. There is now a need to reprioritize resource allocations so that children are placed at the centre of all budget planning. Children have needs and rights beyond those of education and health. The Government should give its urgent and undivided attention to the protection and promotion of the civil and political, as well as economic, social and cultural rights of all children.

88. Many of the victims of extrajudicial killings come from single-parent families usually headed by the mother. The disempowerment of women is closely linked to the marginalization of children. The Government has made some advances in promoting the rights of women, but these efforts have so far remained piecemeal and sporadic. The Government now needs to formulate and put in place a holistic policy on women's rights, with particular emphasis on the empowerment of single mothers.